REMARKS

This is in response to the non-final Office action dated April 4, 2006, for which the three-month shortened statutory period is set to expire on July 5, 2006. This response is being made before the expiration date.

Applicant respectfully requests reconsideration and withdrawal of the rejections of the claims.

Prior to this amendment, claims 1-36 were pending. By way of the present Amendment, claims 19, 32, 34, and 35 have been cancelled. Accordingly, claims 1-18, 20-31, 33, and 36 are currently pending in the application.

Support for this Amendment can be found in the specification and claims as originally filed and no new matter is presented hereby.

The amendments to claims 1, 8, 17, 18, 20, and 30 find support in the specification as originally filed, see, e.g., page 8, lines 8-10.

The amendment to claim 4 finds support in original claim 16.

Support for the amendment to claim 11 is found in original claim 11 and page 23, lines 13-21, of the original specification.

The amendment to claim 16 finds support in original claim 16.

The amendment to claims 21 and 23 find support in original claims 21 and 23.

The amendments to claims 25, 26, and 33 are grammatical or typographical in nature.

Support for the amendment to claim 31 is found in original claim 30. page 8, lines 9-10, and page 4, lines 20-23 of the original specification.

The amendment to claim 36 merely places the claim in independent form.

Rejection under 35 U.S.C. § 101

Claims 30-36 stand rejected under 35 U.S.C. § 101 as being directed to a computer program per se. The objected to language in claims 30 and 31 has been amended in the manner suggested by the Examiner. It is believed that the claims 32-36 were included in the rejection under 36 U.S.C. § 101 in error inasmuch

as they were neither drawn to a computer program per se nor dependent from claim 30. In any event, claims 32, 34, and 35 have been cancelled by this Amendment. Claim 33 is drawn to a system and claim 36 is drawn to a method, and neither is directed to a computer program as alleged by the Examiner. It is, therefore, respectfully submitted that the rejection of claims 33 and 36 was made in error. Withdrawal of the rejection under 35 U.S.C. § 101 is, therefore, respectfully requested.

Rejections under 35 U.S.C. §§ 103

Claims 1-14 and 16-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Siegel (U.S. Patent No. 6,442,523) in view of Blume (U.S. Publication No. 2004/002300).

Claim 15 stands rejected under 35 U.S.C. § 103 as being unpatentable over Siegel and Blume, above, in further view of Hull (U.S. Patent No. 5,919,046).

Claims 19, 32, 34, and 35 have been cancelled. The rejection is traversed to the extent the Examiner deems the rejection applicable to claims 1-18, 20-31, and 33, as amended.

The rejections under Section 103 cannot stand because neither Siegel, Blume, nor Hull, either alone or taken together, teach or suggest the claimed feature of an HTML page including an embedded web object for playing a digital recording of the word. The Examiner, at page 4, line 5, alleges that this feature is found at column 19, lines 17-27 of Siegel and in FIGS. 11-13 of Siegel. The passage appearing at column 19-lines 17-27 is reproduced below:

> Using the exemplary textual navigation method, a child or other individual, as mentioned above, can do virtually the same thing. When a normal word within visually contiguous text is moused over, the surrounding contiguous text is pronounced. When a special word within the contiguous text is moused over, only the special word is pronounced. Thus, a child, or other suitable user, can cause the mouse cursor to flit across the screen, hearing special words on the fly, at random, and also be able to hear the entire passage at will. And if the user wants to hear a particular normal word, clicking on it causes it to be pronounced in isolation. In another variation, the user

may pre-select to have all words pronounced in isolation when moused over. One skilled in the art would know how to set an indicator based on, for example, a radio button selection or other selection means, to cause such a pre-selection.

Contrary to the Examiner's assertion, there is no reference whatsoever to the use of an embedded web object. In fact, the Siegel patent has nothing to do with a web objects whatsoever.

Siegel is directed to a method for the auditory navigation of on-screen textual information by a person who understands the on-screen language in its spoken form, but who cannot read. See Siegel, Abstract. Specifically, this is done by using minimal phonetic or phonemic bits of language to create a set of text entries which may be perused by the user. See Siegel, column 3, lines 1-18. This presumes that the user can understand the spoken language and thus the Siegel system is used to allow a non-literate person to navigate text, thereby enabling a non-literate user to accomplish things such as navigating to and selecting text entries of interest, navigating and implementing text-based on-screen control functions, selecting words for use in writing a story, etc. See column 4, lines 1-15.

In the "talking dictionary" embodiment of Siegel, discussed beginning at column 4 of Siegel, the user with minimal reading ability may navigate to words in a multimedia dictionary.

In a web browser embodiment of Siegel, which the Examiner relies upon in the Office action and which is discussed beginning at column 18 of Siegel, the same navigation techniques used in the talking dictionary are used to search and navigate to web pages. The web browser embodiment is implemented in Microsoft Visual Basic. See column 20, lines 5-6.

Visual Basic is a program development environment that includes a large set of C++ classes to create Windows applications to run on the Windows desktop. According to the Microsoft Developer Network (msdn) web site <http://msdn.microsoft.com/vbasic/>, Visual Basic includes "language constructs, new compiler features, dramatically enhanced productivity, and an improved debugging experience." It allows the developer to construct unique web browsers that run on the Windows desktop, such as the one depicted in Siegel that shows a

Merlin character who recites the text. See, e.g., FIGS. 11-13 and column 19, lines 63-65. FIGS. 11-13 of Siegel are screen shots of the browser alternatives of Siegel created using Visual Basic. See column 19, lines 30-57 of Siegel. Thus, contrary to the Examiner's assertion, FIGS. 11-13 do not disclose an embedded web object as recited by the rejected claims, as amended.

Visual Basic produces computer code that must be designed, coded, debugged, and finally compiled into low-level Windows system code. In order to run, this low level code must be installed on each individual Windows operating system as a program application. Siegel describes a "custom" application written in C++ or Visual Basic that incorporates a web browsing function and which replaces any standard web browser, such as Internet Explorer or Netscape, with a unique browser that embodies the Siegel invention. See Siegel at column 20, lines 10-19. Siegel also describes the utilization of numerous other Windows system program components, such as APIs, DLLs, Microsoft's Speech SDK, and Microsoft Agent technology. See column 20, lines 36-48. Siegel describes only traditional software development for the Windows operating system, and not the embedded web object as recited by the presently amended claims.

The presently claimed invention employing an embedded web object defines patentably over Siegel. Whereas Siegel discloses only traditional software development, which consists of complex compiled programs (usually written in C++, C, or a higher level set of classes such as Visual Basic) which must be installed on the user's computer and executed in place of a standard web browser, all of the rejected claims, as amended, call for an embedded web object, thereby allowing the spoken word content to be implemented in a very small web program that resides on a web server and is downloaded to the user's browser along with a web page to be viewed by the user. This small program is literally embedded in the actual HTML page as a web object (for example, using the HTML tag "<OBJECT>").

In sharp contrast, Siegel explicitly describes the construction of an custom program which incorporates browsing to be used in place of a standard web browser. This custom browser application of Siegel that must be designed, coded, debugged, compiled and installed on a Windows computer. The present invention,

on the other hand, requires no installation, runs on any browser and any type of computer desktop, and is invisibly downloaded with a web page to every user. The present invention has been specifically designed to eliminate the burdens of traditional software development, such as the browser development described by Siegel. The present invention provides streamlined and economical web page construction, and requires no software development experience. This streamlined, simplified approach is neither traditional nor obvious to one practiced in the art of software development. In fact, the Speaking Words process deliberately runs counter to normal software development practice. The present invention eliminates the traditional costs of software development (e.g., skilled developers, costly development environments, complex development processes and cycles) and, at the same time, eliminates the traditional costs of publishing (e.g., paper, color printing, book binding, book distribution), thereby providing an economic advantage while adding the vital dimension of sound to the written word.

Unlike the development of Siegel, which requires that the user obtain and install a custom web browser replacement, web pages embodying the present invention can be viewed, heard, and used anywhere in the world at any time using the users standard web browser. No custom software installation is ever necessary.

Unlike Siegel, a web page embodying the present invention can be viewed, heard, and used by countless users simultaneously. In contrast, the auditory navigation of Siegel is only available to those who obtain and install the custom application. Unlike Siegel, web pages embodying the present invention can be published very economically and fast and no further software development is necessary. It is only necessary to replace the page-specific sound files included in the embedded web object and to make any corresponding changes to the background and the positions of the rollover regions.

Neither Blume nor Hull cure this deficiency in Siegel.

Blume discloses a stylus-based system, such as a scanner or an X/Y position sensor, for providing an audible output corresponding to the contents of a book or other printed reading material. There is no teaching or suggestion of an embedded web object, which is a feature of all of the rejected claims.

Hull is relied upon solely for its teaching of a transparent screen overlay as a pointing device. Hull contains no teaching or suggestion of an embedded web object.

None of the cited references disclose or otherwise suggest an embedded web object as called for by all of the rejected claims. For at least this reason, a prima facie case of obviousness has not been established.

Additionally, the Siegel and Blume patents are directed to different systems having entirely different objectives and, therefore, it is respectfully submitted that there would not have been any suggestion in these disparate references for the modification proposed in the Office action.

A reference is analogous prior art, and thus properly citable, only if it is either (1) in the field of applicant's endeavor or, (2) reasonably pertinent to the particular problem with which the inventor was concerned. See, e.g., In re Oetiker, 977 F.2d 1443, 1446, 24 U.S.P.Q.2d 1443, 1445 (Fed. Cir. 1992); In re Deminski, 796 F.2d 436, 230 U.S.P.Q. 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 U.S.P.Q.2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); and Wang Laboratories Inc. v. Toshiba Corp., 993 F.2d 858, 26 U.S.P.Q.2.d 1767 (Fed. Cir. 1993).

The present invention and the Siegel and Blume references are directed to different fields of endeavor. The present invention is directed to a language instruction system and related methods, whereas the Siegel relates to the auditory navigation of text and Blume relates to the enhancement of printed matter, which are in completely different fields of endeavor than the present invention.

Neither the Siegel nor Blume references are reasonably pertinent to the particular problem with which the inventor was concerned. The present invention is concerned with combining visual and auditory language learning which may be adapted to play on virtually all web browsers using a widely or universally available player. By contrast, the Siegel reference is not intended as a language

learning tool, but rather a "custom" browser replacement application useful as an interpretive aid to text comprehension and web navigation for non-literate users. Siegel's invention is more comparable to the well-known text-to-speech programs that read the contents of a computer window to visually-impaired or non-literate computer users than to a language instruction program. The Blume reference is directed to the enhancement of books or other printed materials and is not relevant or analogous to the present invention or the development of Siegel.

Because the cited reference are directed to neither the same field of endeavor nor the same problem with which the Applicant was concerned, the cited reference nonanalogous art. Because the rejection is based on nonanalogous prior art, it is respectfully submitted that, for this additional reason, a prima facie case of obviousness has not been established.

With respect to claim 16, the Examiner acknowledges that Siegel does not disclose a rollover region defined by a rectangular box with top and side boundaries that are aligned with the top and side of the word and a bottom boundary that extends a predetermined number of pixels below the bottom of the word. Nevertheless, the Examiner asserts that the recited region "would have been an obvious matter of design choice" because Applicant has not disclosed that the recited region provides an advantage, is used for a particular purpose, or solves a stated problem. The Examiner's attention is respectfully directed to page 13, lines 4-14, of the originally filed specification, in which it is noted that by extending the rollover region a predetermined number of pixels below the word, the user can trigger audio playback using a pointing device without visually obscuring the word with an on-screen pointer or cursor.

The Examiner is respectfully reminded that a rejection based on "obvious design choice" is an improper basis for a rejection under 35 U.S.C. § 103 when the claimed and cited structures achieve different purposes. See, e.g., In re Gal, 980 F.2d 717 (Fed. Cir. 1992); In re Chu, 66 F.3d 292 (Fed. Cir. 1995). In the present case, the extension of the rollover region functions to allow the user to trigger audio output without visually obscuring the word, thereby increasing the bond

between the written and spoken word. As noted by the Examiner, Siegel does not disclose any rollover region characteristics.

As the Examiner is aware, Applicant is required to seasonably challenge statements by the Examiner that are not supported on the record, and failure to do so will be construed as an admission by Applicant that the statement is true. M.P.E.P. § 2144.03. Thus, in accordance with Applicant's duty to seasonably challenge such unsupported statements, if the Examiner intends to take Official Notice that the recited rollover region is an obvious design choice, then the Examiner is hereby requested to cite references supporting her position with respect thereto. If the Examiner is unable to provide such references, and is relying on facts within her own personal knowledge, Applicant hereby requests that such facts be set forth in an affidavit from the Examiner under 37 C.F.R. § 104(d)(2). Absent substantiation by the Examiner, it is respectfully requested that this basis for the rejection under 35 U.S.C. § 103 be withdrawn.

Claims 21-25 are directed a method for developing a language instruction system including, _inter alia_, creating a FLASH document including a background image and a digital sound recording of a word for audible playback. Neither Siegel, Blume, nor Hull disclose creating the recited FLASH document. Accordingly, it is respectfully submitted that for this additional reason, claims 21-25 are patentable over Siegel.

For the above reasons, Applicant respectfully submits that the Examiner has not established a _prima facie_ case of obviousness with respect to claims 1-18, 20-31, and 33. Withdrawal of the rejections under Section 103 are therefore, respectfully requested.
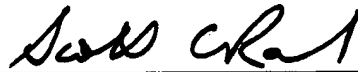

Allowable Subject Matter

Claim 36 has not been rejected based on prior art. Thus, the Applicant assumes that claim 36 contains allowable subject matter. Claim 36, therefore, has been placed in independent form.

Conclusion

Applicant has made diligent effort to place the claims into condition for allowance. It is believed that the case is now in condition for allowance and early notice to that effect is earnestly solicited. Should there remain any outstanding issues, it is respectfully requested that the Examiner telephone the undersigned at (603) 628-1461 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,

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